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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/668,203 | 09/24/2003 | Hideki Kanie | A-9924 | 4124 |

181 7590 09/27/2004

MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE
SUITE 500
MCLEAN, VA 22102-3833

EXAMINER

SAKRAN, VICTOR N

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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3677

DATE MAILED: 09/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/668,203

Applicant(s)

KANIE, HIDEKI

Examiner

VICTOR N SAKRAN

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 September 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6, 8-11 and 13-17 is/are rejected.
- 7) ☒ Claim(s) 4, 5, 7 and 12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 9/24/03 and 3/2/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

Claims 4 and 12, are objected to because of the following informalities:
since the term "or: as recited in said claims is vague and not a positive recitation.
Appropriate correction is required.

Claim 5, is objected to because of the following informalities: because the phrase "each-arm end locking pawl with the cooperable flange-end locking pawl" has no proper antecedent basis in said claim or the parent claim from which it depends. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1, 2, 9-11,15 and 16, are rejected under 35 U.S.C. 103(a) as being unpatentable over Asami U. S. patent No. 4,850,773 in view of German Patent No. 3,517,620 to Yuta et al (both are cited by Applicant).

Asami discloses Applicant's claimed combination of a clip device assembly for securing an attachment member (B) having a through-hole (b) to a support structure, wherein said attachment member having a through-hole (b) comprising a flange (2) which is larger than the through-hole in the attachment member, a shank (1) extending from said flange to a predetermined height for insertion into said through-hole, a pair of arms (3) extending from the opposite end of said shank (1) and are hingedly connected thereto by hinge means (6) for rotation relative to said shank and for engaging one side of the attachment member (B); see Figure 10, and each of said arms is provided with a lever member (14) extending from the base of said arm and are adapted to be rotated with said arm, and when the shank is inserted into said through-hole (b) of the attachment member the arms rotate together with the levers outwardly of the shank , such

Art Unit: 3677

that the arms are substantially parallel to the flange (2) and the flange is in contact with the outer side of the attachment member; see Figure 8, wherein said shank (1) having a hollow section provided with engaging means (9c, 9c') and a threaded stud member (C) adapted to be inserted into the hollow section and to be secured into said hollow section by said engaging means; see Figures 1,3,5,6,8,10; column 3, lines 46-57, 59-63; column 4, lines 1-17, 32-35, 46-50, and claims 1-3, except that the reference to Asami does not show that its levers (14) engaging one side of the attachment member and the arms and the levers are diametrically disposed with respect to the shank. The German Patent '620 to Yuta et al discloses a similar clip comprising a shank (11) having a pair of arms (14) and a pair of levers (12) diametrically extending with respect to the shank and said levers are adapted to engage one side of its attachment member (2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the mounting of the levers (4) in Asami such that said levers will be in contact with one side of its attachment member and both of its arms (3) and its levers (4) will be diametrically disposed with respect to its shank (1) in the manner taught, disclosed and suggested by the German Patent '620 to Yuta et al; especially, since such modification involves only routine skill in the art.

Furthermore, Applicant is reminded that in considering the disclosure of a reference, it is proper to take into account not only specific teaching of the reference but also the inferences which one skilled in the art would reasonably be

Art Unit: 3677

expected to draw therefrom; see *In re Preda*, 401 F2d 825, 826, 159 USPQ 342,344 (CCPA1968).

Claims 3, 6, 8, 13, 14 and 17, are rejected under 35 U.S.C. 103(a) as being unpatentable over the same references as applied to claims 1 and 11, above, and further in view of Grittner et al U. S. Patent No. 4,122,583 and German Patent '620.to Yuta et al.

Grittner teaches the use of arms (levers) (9,11) provided with a hinge (10) formed at the middle portion thereof in order to allow a tip portion thereof to rotate relative to the base portion (8); see Figures 1 and 2, Grittner also teaches the use of a breakable web member (7, 17) between a shank and a pair of arms in a fastening clip; see Figures 1-4; column 3, lines 9-15, 18-24, and claim 1. Yuta et al '620 also teaches the use of a breakable web (25) disposed between a shank and a pair of arms in a similar clip; see Figures 2a and 2b, and to further incorporate such structure in Asami by merely providing its levers with a middle hinge in order to allow the tip portion of its levers to rotate including the use of a breakable web member for its shank and its arms in the manner taught, disclosed and suggested by Grittner et al and the German Patent to Yuta et al it would have been obvious to one having ordinary skill in the art at the time the invention was made, especially, since the use of such structure is conventional and well known within the art.

Art Unit: 3677

Claims 4,5,7 and 12, are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant's attention is directed to the prior art cited herein, and of record, as showing structure related to Applicant's disclosed invention.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to VICTOR N SAKRAN whose telephone number is 703-308-2224. The examiner can normally be reached on 6:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. swann can be reached on 703-308-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3677

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

September 22, 2004


VICTOR N SAKRAN
Primary Examiner
Art Unit 3677